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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/643,376

08/18/2003

Michael A. Pouchak

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3616

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7590

05/27/2004

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EXAMINER

TANNER, HARRY B

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/643,376

Applicant(s)

POUCHAK, MICHAEL A.

Examiner

Harry B. Tanner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/16/04
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-10 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Farley. Farley discloses a thermostat system having a first means for providing a modulated output and a second means for providing a non-modulated output such that one heating or cooling source is proportionally controlled and the other heating or cooling sources are controlled in an on/off manner (see col. 1, lines 47-56).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanders in view of Farley. Flanders discloses a control system in which the thermostat provides different temperature setpoints for different times of the day and week and controls the valves of the heating system burners in response to the required heating demand. Farley teaches a thermostat system having a first means for providing a modulated output and a second means for providing a non-modulated output such that one heating or cooling source is proportionally controlled and the other heating or

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cooling sources are controlled in an on/off manner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Flanders such that it included the use of a thermostat system having a first means for providing a modulated output and a second means for providing a non-modulated output such that one heating valve is proportionally controlled and the other heating valves are controlled in an on/off manner in view of the teachings of Farley.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanders in view of Farley as applied to claim 1 above, and further in view of Shyu. Shyu teaches controlling both temperature and humidity setpoints in a time dependent manner (see col.7, lines 20-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Flanders such that it included controlling both temperature and humidity setpoints in a time dependent manner in view of the teachings of Shyu.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanders in view of Farley and Shyu as applied to claim 7 above, and further in view of Kline et al. Kline teaches the use of a personal digital assistant in order to provide user interface to a climate control system (see col. 4, lines 3-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Flanders such that it included the use of a personal digital assistant in order to provide user interface to the climate control system in view of the teachings of Kline.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farley as applied to claim 10 above, and further in view of Kline as applied to claim 8 above.

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Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farley as applied to claim 10 above, and further in view of Shyu as applied to claim 6 above.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farley as applied to claim 20 above, and further in view of Roh et al. Roh teaches the use of an infrared transmitter to provide user interface to a temperature control processor (see 60, 70, 30, 20, 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Farley such that it included the use of an infrared transmitter to provide user interface to the temperature control processor in view of the teachings of Roh.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farley in view of Shyu as applied to claim 14 above, and further in view of Kline et al as applied to claim 8 above.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farley in view of Shyu and Kline et al as applied to claim 18 above, and further in view of Roh et al as applied to claim 21 above.

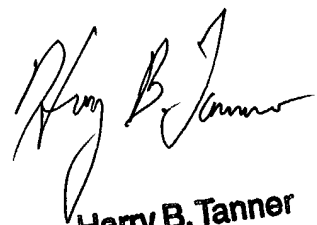
Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over as over Farley in view of Roh et al applied to claim 21 above, and further in view of Kline et al as applied to claim 8 above.

Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over as over Farley in view of Roh et al and Kline et al applied to claim 24 above, and further in view of Shyu as applied to claim 6 above.

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Claims 27, 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maciulewicz in view of Pouchak. Maciulewicz discloses a plurality of thermostats connected through a network communication bus to a master controller 12 that controls the heating/ cooling system 28 in response to the temperature control demands of the system. Pouchak teaches the use of a sequencer in order to control a heating system in response to heating load on the system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Maciulewicz such that it included the use of a sequencer in order to control a heating system in response to heating load on the system in view of the teachings of Pouchak.

Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maciulewicz in view of Pouchak as applied to claim 28 above, and further in view of Kline et al as applied to claim 8 above.



Harry B. Tanner  
Primary Examiner

Harry Tanner  
May 24, 2004  
703-308-2622